

REMARKS

Claims 1, 5-17, and 31-40 are pending in the present application. Claims 2-4 and 18-30 were previously canceled. No claims have been amended herein. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

As an initial note, Applicants thank Examiner Ibrahim for taking the time to discuss this case over the telephone on May 11, 2010. Claim 1 was discussed with regard to Davies. In particular, Examiner Ibrahim clarified that the “threshold” recited in claim 1 was disclosed by the “local threshold” of Davies as illustrated in Figure 5, and that the “measurement level” of Applicants’ claim 1 was disclosed by the “maximum bandwidth for path” of Davies as illustrated in Figure 5. Although Applicants disagree with Examiner Ibrahim for the reasons discussed below, Applicants thank Examiner Ibrahim for taking the time to discuss this case and to provide this clarification. His comments were very helpful and greatly appreciated. Further, while no agreement was made, Examiner Ibrahim did state that he would consider the arguments submitted herein.

Claims 1, 5-17, and 31-40 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 6,839,767 (hereinafter “Davies”), in view of U.S. Patent No. 6,366,559 (hereinafter “Krishnan”) and U.S. Patent No. 6,888,842 (hereinafter “Kirby”). Applicants respectfully traverse these rejections.

Applicants’ claim 1 recites, “setting *a threshold* for each link where said threshold defines a maximum sum of forwarding resources requested by applications for their application data flows, ADFs, on the link” and “dynamically adapting *said threshold*.” Applicants’ claim 1 further recites, “calculating *a measurement level*, the measurement level being a rate lower than

the threshold” and “recalculating *the measurement level* based on the dynamically adapted threshold.” Thus, Applicants’ claim 1 recites a threshold and a measurement level, both of which are adjusted. Further, because the measurement level is a rate lower than the threshold, the measurement level is a different value than the threshold value.

In contrast, Davies assertedly only discloses adjusting the local threshold. The maximum bandwidth for the path is a value that represents the maximum bandwidth for a path which may not be exceeded and is not adjusted.

In view of the above remarks, Applicants respectfully request that the rejection of claim 1 be withdrawn. Claims 5-17 depend from claim 1 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants’ claim 31 also recites a threshold and a measurement level. Accordingly, the cited references fail to disclose the recited limitations of claim 31 for at least similar reasons as those discussed above with reference to claim 1. Accordingly, Applicants respectfully request that the rejection of claim 31 be withdrawn. Claims 32-40 depend from claim 31 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

In view of the above, Applicants respectfully submit that this response complies with 37 C.F.R. § 1.116. Applicants further submit that the claims are in condition for allowance. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicants' attorney at the number listed below. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

May 14, 2010
Date

SLATER & MATSIL, L.L.P.
17950 Preston Rd., Suite 1000
Dallas, Texas 75252
Tel.: 972-732-1001
Fax: 972-732-9218

/Roger C. Knapp/
Roger C. Knapp
Attorney for Applicants
Reg. No. 46,836